

Prohibiting the issuance of permits to certain violators
(HB 1239 by Polumbo/Green)

DIGEST: HB 1239 would have prohibited the Texas Air Control Board, the Texas Water Commission, and the Texas Department of Health from issuing a permit for a facility or injection well if the owner or operator knowingly disregarded the law and began construction or operation of the site without obtaining the necessary permits. The prohibition would have applied for three years after the owner or operator had received notice of the violation. The prohibition would not have applied if the owner or operator had stopped operations immediately upon receiving notification. The bill would not have applied to real property, facilities or equipment of public utilities or mining companies providing fuel to public utilities.

GOVERNOR'S
REASON
FOR VETO:

The bill would have eliminated agencies' discretion in decision-making, which is is neither appropriate nor desirable. Agencies can take abuses by permit applicants into account when considering applications. There is no evidence that the agencies have not exercised this authority to protect the interests of the public.

RESPONSE:

"It's an unbelievable message the governor has sent to the people of Texas," said Rep. Tony Polumbo, the author of HB 1239. Rep. Polumbo said the governor does not recognize that the objective of the permit process is to protect the public and not to accommodate businesses. He said the governor is misguided in his assumption that state agencies have adequately exercised their authority and that current law provides a sufficient remedy against abusers. Current practice has been to establish a compliance agreement, allowing entities to to continue operations even though they may be in violation of the law. This bill would have provided specific language so as to allow the courts to shut down violators. Rep. Polumbo said he would reintroduce the bill at the next regular legislative session in 1991 "when we should have a more enlightened governor in office."

NOTES:

HB 1239 passed the House on the Consent Calendar and was not analyzed in a Daily Floor Report.